

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF AUGUST, 2011

BEFORE

THE HON'BLE MR.JUSTICE V.G.SABHAHIT

WRIT PETITION No.23213 OF 2010 (GM-RES)

BETWEEN:

THE PRINCIPAL,
G.M. INSTITUTE OF TECHNOLOGY,
P.B. NO. 4,
P.B ROAD,
DAVANGERE - 577 006.

... PETITIONER

(By SRI G M CHANDRASHEKAR, ADV..)

AND:

1. THE COMMISSIONER,
KARNATAKA INFORMATION COMMISSION,
M.S. BUILDING,
BANGALORE.

2. SRI M.G THIPPESWAMY,
BHAGATH SINGH NAGAR MAIN ROAD,
DAVANGERE - 577 002.

...RESPONDENTS

(BY SRI R B SATHYANARAYANA, HCGP FOR R1 &
SMT. POORNIMA RANGACHAR, ADV. FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE PROCEEDINGS PENDING BEFORE THE R1 AT
ANENS - C DTD 22.05.2010. ALTERNATIVELY, SET ASIDE
THE ORDER DTD 29.06.2010 PASSED BY THE R1

PRODUCED AT ANNEX-D AS THE SAID ORDER IS NOT IN ACCORDANCE WITH THE INFORMATION ACT.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

This petition is filed being aggrieved by the order passed by the Karnataka Information Commission dt. 29.06.2010, wherein the petitioner herein has been directed to file the document available with him in respect of the Institution having received the grants within 7 days with a copy to the respondent and however, since the petitioner did not bother to furnish the information though the Institution had received Rs.77,00,000/- from MPLAD grants, the Principal was directed to be careful enough in responding to the requests filed under the RTI Act and the complaint is adjourned to 06.08.2010 at 3.30 p.m.

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2. It is averred in the petition that the petitioner is the Principal of G.M. Institute of Technology (hereinafter called as 'GMIT' for brevity). He is supervising and controlling all the Head of Departments and its Teaching Staff as well as non teaching staffs so as to run smoothly the Administration of the Institution. The Institution is approved by AICTE, New Delhi and affiliated to Vishveshwaraiah Technological University, Belgaum. The Institution is neither Aided nor getting any financial assistance from the appropriate Government. It is further averred that the petitioner is not governed under the Right to Information Act, 2005 (hereinafter called as 'RTI Act' for brevity). Wherefore, the application filed by the second respondent seeking for certain information is not maintainable as per Annexure 'A' and 'B' respectively produced along with the petition.

3. It is further averred that the petitioner is not coming under the purview of the RTI Act. Respondent

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No.1 without taking into consideration the scope of the Act, has directed to furnish the details such as copy of the recommended letter of the M.P. to the Deputy Commissioner to provide the Grant. A copy of the release order issued by the Deputy Commissioner, a copy of the agreement between the Deputy Commissioner and the Institution for execution of the work and also the details of the payment made to the contractor by way of bills within 15 days free of cost through RPAD, under compliance to the Commission as per Annexure 'D'.

4. It is further averred that the said order is liable to be quashed as the petitioner – Institution is not aided by the Government and is not a public authority for the purpose of the Act. Wherefore, Annexure 'D' which is passed by the Karnataka Information Commission is liable to be quashed.

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5. Learned counsel appearing for the petitioner submitted that petitioner – Institution is not receiving any aid or financial assistance from the Government. However, the work of construction of bus shelter in various places was entrusted to the students who were doing Civil Engineering with the Institution of the petitioner and the order was issued to that effect. Mere fact that such an order is issued, does not bring the petitioner within the purview of the Act. However, the Karnataka Information Commission did not accept the said contention and directed the Deputy Commissioner to ascertain as to whether any aid is received from the Government in construction of the bus shelter. On enquiry the Deputy Commissioner obtained details which revealed that the local M.P. had released the amount to the GMIT for construction of bus shelter. Wherefore, the Commission has directed the petitioner to file the documents available with him in respect of the Institution having received the grant within 7 days and directed the Principal to be careful enough in

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responding to the requests filed under the RTI Act and adjourned the matter to 06.08.2010 at 3.30 p.m. for further hearing. Being aggrieved by the said order this Writ Petition is filed to quash the same.

6. Learned counsel has relied upon the decision of the Uttarakhand High Court in the case of ASIAN EDUCATON CHARITABLE SOCIETY & ANR. vs. STATE OF UTTARAKHAND & ORS. reported in AIR 2010 UTTARAKHAND 72, whereas it is held that 'Public authority' does not include schools or institutions privately funded and which is not owned or controlled by Government cannot come within the definition of 'public authority'. Public Information Officer cannot compel such institutions to furnish information under the Act.

7. We have given careful consideration to the contention of the learned counsel for the petitioner and scrutinised the material on record.

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8. The material on record would clearly show that writ petitioner was entrusted with the work of construction of bus shelters at various places, is not in dispute. The information received from the Deputy Commissioner would reveal as discussed in the order passed by the Karnataka Information Commission that Rs.77 lakhs has been released in favour of the petitioner by Local Member of Parliament under the MPLAD scheme for construction of bus shelter. The information that is asked for about the amount given to the constructor and other particulars pertaining to only construction of the bus shelter and not with reference to the running of the educational institution by the petitioner. In view of the fact that the construction of the bus shelter is initiated by the MP under Local Area Development Fund, it is clear that for the purpose of construction of bus shelter which has been entrusted to the petitioner, it would be a public authority as the construction of bus shelter is funded by the MP under

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Local Area Development Fund and wherefore, the petitioner has been asked to file documents available with him in respect of the Institution having received grant within 7 days, with a copy to the respondent. The Principal of the Institution/petitioner, is directed to careful enough in responding to the requests filed under the RTI act. Accordingly, I hold that at this juncture no ground is made out to interfere with the order as per Annexure 'D' passed by the Karnataka Information commission. Wherefore, the petition filed under Articles 226 and 227 of the Constitution of India is misconceived and is devoid of merit and I pass the following:

ORDER

Petition is dismissed.

Sd/-
JUDGE

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